

S. 2477

June 15, 1976

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CONGRESSIONAL RECORD — SENATE

S 9365

NAYS—9

Curtis Hruska Thurmond
Pannin McClure Tower
Hansen Scott
Hathaway William L.

PRESENT AND GIVING A LIVE PAIR, AS
PREVIOUSLY RECORDED—1

Mr. McClellan, against.

NOT VOTING—8

Buckley Goldwater Mansfield
Byrd Hartke Pearson
Harry F., Jr. Magnuson Symington

So the bill (S. 2477), as amended, was passed, as follows:

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That this Act may be cited as the "Lobbying Disclosure Act of 1976".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that the enhancement of responsible representative government requires that the fullest opportunity be afforded to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government; and

(2) that the identity and extent of the activities of organizations which pay others, or engage on their own behalf, in certain efforts to influence an issue before Congress or the executive branch should be publicly and timely disclosed in order to provide the Congress, the executive branch, and all members of the public with a fuller understanding of the nature and source of such activities.

(b) It is the purpose of this Act to provide for the disclosure to the Congress, the executive branch, and to all members of the public of such efforts without interfering with the right to petition the Government for a redress of grievances, and with other constitutional rights.

DEFINITION OF A LOBBYIST

Sec. 3 (a) As used in this Act, the term "lobbyist" means—

(1) an organization which pays any legislative agent an income of \$250 or more in any quarterly period, other than payment or reimbursement for personal travel expenses, to engage in one or more lobbying communications; or

(2) an organization, other than an organization described in subsection (b) of the section which engages on its own behalf, or on behalf of its members, in twelve or more oral lobbying communications in any quarterly period, acting through its own paid officers, paid directors, or paid employees. For purposes of determining whether any organization is a lobbyist under this paragraph, there shall be excluded any communication with a Member of Congress, or an individual on the personal staff of such Member, representing the State, or the congressional district within the State, in which such organization has its principal place of business, and, further, there shall be excluded any communication initiated by Congress or the executive branch whereby the organization provides information or opinions to Congress or the executive branch solely at the request of Congress or the executive branch; or

(3) an organization which, in any quarterly period, engages directly or through a legislative agent in any lobbying solicitations where the total direct expenses of such solicitations is \$5,000 or more.

(b) Any organization that would otherwise be a lobbyist solely as a result of paragraph 3(a)(2) of this section shall not be a lobbyist for purposes of this Act of—

(1) the Comptroller General shall determine that the organization is a controlled local affiliate of a parent voluntary membership

organization. The Comptroller General shall not designate any organization a controlled local affiliate if he determines that it is the intent of the parent organization to use such a designation as a means to evade, in whole or in part, the requirements of this Act the Comptroller General shall issue any such determination no later than thirty days following the submission of a request for such determination;

(ii) the paid officers, paid directors, and paid employees of the controlled local affiliate engage in less than twelve in person oral lobbying communications in the quarter; and

(iii) the parent voluntary membership organization is a lobbyist which includes on its quarterly report all the information on the lobbying activities of the controlled local affiliate described in subsection (c) of this section.

(c) A parent voluntary membership organization may also provide the following additional information about the lobbying activities of any of its controlled local affiliates described in subsection (b) of section 3 of the Act:

(1) the identity of the affiliate and the approximate number of individuals who are members of that affiliate, and the approximate number of organizations which are members of that affiliate;

(2) a description of each issue in connection with which the lobbyist urged, requested, or required the affiliate to engage in one or more lobbying communications or solicitations; and

(3) a report of any gifts by the affiliate or its officers, directors, or employees, which the affiliate would otherwise be required as a lobbyist to report pursuant to section 7.

(d) For purposes of subsection (b) "controlled local affiliate" means a local voluntary membership organization whose lobbying activities and policies are, either by formal agreement, or by practice, subject to the control of a parent voluntary membership organization with whom the affiliate is related through bylaws, charters or similar agreements. In determining whether an organization is a controlled local affiliate the Comptroller General shall consider, among other factors, whether the parent may control what position the affiliate may take on an issue before Congress, and whether the parent may require the affiliate to engage, or not to engage, in particular lobbying communications or solicitations.

(e) Except as provided in subsection (g), as used in this Act, the term "lobbying communication" means—

(1) a communication with Congress which is intended to influence an issue before the Congress;

(2) a communication with the executive branch urging or requesting any officer or employee of the executive branch to act or not to act, or to act in a certain manner, concerning the approval of any legislation passed by Congress, any nomination; any expression of views to Congress concerning an issue before Congress, or any other communication to, or testimony before, Congress; and

(3) a communication with the executive branch urging or requesting any officer or employee of the executive branch to act or not to act, or to act in a certain manner, concerning—

(A) any contract to which the Federal Government is or may become a party, or

(B) any award, or other benefit which is or may be awarded, given, or otherwise bestowed upon any person by the Federal Government,

where such contract, award, or other benefit involves an obligation incurred by the Federal Government of \$1,000,000 or more.

(f) As used in this Act, the term, "lobbying solicitation" means a solicitation which is

intended to influence in a specific or general way an issue before the Congress or the executive branch by clearly urging, requesting, or requiring one or more persons to communicate with Congress or the executive branch with respect to any such issue, or to solicit another person to make such a communication.

(g) As used in this Act, the term "lobbying communication" and "lobbying solicitation" do not include—

(1) a communication or solicitation by an individual, acting solely on his own behalf, for redress of his personal grievances or to express his own personal opinion;

(2) a communication which deals only with the existence or status of any issue, or which seeks only to determine the subject matter of an issue;

(3) testimony given before a committee or office of the Congress or the executive branch or submitted to a committee or office of the Congress for inclusion in the public record of a hearing conducted by such committee or office;

(4) a communication or solicitation made by an officer or employee of the executive branch, acting in his official capacity, or a communication or solicitation by a Member, officer, or employee of the Congress, acting in his official capacity;

(5) a communication or solicitation made by an individual directly employed by a State or local government or Indian tribe, acting in his official capacity;

(6) a communication or solicitation made through the instrumentality of a newspaper, book, periodical, magazine, or other publication of general distribution, or through a radio or a television broadcast: *Provided, however,* That this exception shall not apply (A) to a communication or solicitation made through the publication of a voluntary membership organization which is not customarily distributed outside the scope of the membership of such organization, or (B) to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication of general distribution, or through a paid radio or television advertisement;

(7) a communication or solicitation by, or on behalf of, a candidate, as defined in section 431(b) of title 2, United States Code, or by, or on behalf of, a candidate for a State or local office, made in his capacity as a candidate for Federal, State, or local office, including a communication or solicitation by, or on behalf of, an organization in its capacity as a political committee, as defined in section 431(d) of title 2, United States Code.

(8) a communication or solicitation by, or on behalf of—

(A) a political party, as defined in section 431(m) of title 2, United States Code, or a National, State, or local committee or other organizational unit of such a political party, regarding its activities, undertakings, policies, statements, programs, or platforms; or

(B) a political party recognized as such under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or a committee or other organizational unit of such a political party, regarding its activities, undertakings, policies, statements, programs, or platforms.

(h) For purposes of this Act an oral lobbying communication which is made simultaneously to more than one individual in the course of a single meeting or conversation shall be treated as a single oral lobbying communication.

REGISTRATION OF LOBBYISTS

Sec. 4 (a) Each organization shall register with the Comptroller General within 30 days after becoming a lobbyist. Each registration shall contain—

(1) an identification of the lobbyist;

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(2) in the case of a voluntary membership organization, the approximate number of individuals who are members of the organization; the approximate number of organizations which are members of the organization, and a description of the type of such organizations; a general description of the procedures by which the organization establishes its position with respect to issues before Congress or the executive branch; and a general description of the geographic distribution and common interests of the persons who are members thereof; and

(3) the number of organizations and the number of individuals from whom the lobbyist received income during the year preceding the year in which the registration is filed where such income was expended in whole or in part for lobbying; an identification of each organization from which the lobbyist received income during such period including the amount of income provided by the organization, where the income was expended in whole or in part for lobbying if the amount of income received from the organization was \$2,500 or more in amount or value during such period; and an identification of each individual from whom the lobbyist received income during such period including the amount of income provided by the individual where the income was expended in whole or in part for lobbying if the total amount of income received from the individual and his immediate family was \$2,500 or more in amount or value during such period. This paragraph shall not apply to any income received by the lobbyist in the form of a return on an investment by the lobbyist, or a return on the capital of the lobbyist.

(b) The registration filed under subsection (a) by an organization which is a lobbyist under section 3(a)(1) shall also include—

(1) a general description of the subject matter of each category of issues which the lobbyist, as of the date of filing, intends to influence by its legislative agent engaging in one or more lobbying communications; and

(2) an identification of the legislative agent which the lobbyist has retained, including an identification of each officer, director, or employee of the legislative agent, and of any other person to whom the legislative agent expects to provide income, other than personal travel expenses, where the legislative agent expects such officer, director, employee or other person will have responsibility for engaging in lobbying communications on behalf of the lobbyist.

(c) The registration filed under subsection (a) by an organization which is a lobbyist under section 3(a)(2) shall also include—

(1) a general description of the subject matter of each category of issues which the lobbyist, as of the date of filing, intends to influence by engaging in lobbying communications;

(2) an identification of each paid officer, paid director, and paid employee of the lobbyist whom, as of the date of filing, the lobbyist expects will have responsibility for engaging in oral lobbying communications on behalf of the organization, excluding any lobbying communications engaged in as a direct consequence of a solicitation described in subsection 5(d).

(d) The registration filed under subsection (a) by an organization which is a lobbyist under section 3(a)(3) shall also include—

(1) a general description of the subject matter of each category of issues which the lobbyist, as of the date of filing, intends to influence by engaging, either directly or through a legislative agent, in any lobbying solicitation which refers to the same issue or issues and which is intended to reach, or could reasonably be expected to reach, in identical or similar form, five hundred or more officers, directors, or one hundred or more

employees, of the lobbyist, other than officers, directors, or employees identified pursuant to subsection (c) of this section; or twelve or more affiliates; and

(2) the identification of any legislative agent through whom the lobbyist expects to make any solicitation described in paragraph (1).

(e) In the event of any change in the information filed under subsection (a), the lobbyist shall amend the registration required by this section not later than thirty days after the close of the next quarterly period, or at such longer intervals of time as the Comptroller General determines are adequate to disclose the current identity and activities of the lobbyist, except that in the event that any organization retains any new legislative agent after filing a registration under subsection (a), the lobbyist shall amend the registration in compliance with subsection (b) or subsection (d) of this section within fifteen days of the time such legislative agent is retained.

(f) A registration filed under subsection (a) shall be effective until the first day of January immediately following the date upon which the initial registration is filed. Each lobbyist shall file a new registration under subsection (a) within thirty days after the first day of January of each year, except that a person whose registration has expired and who has ceased to be a lobbyist shall register under subsection (a) not later than fifteen days after again becoming a lobbyist.

RECORDS

SEC. 5. Each lobbyist and each person whom the lobbyist retains as a legislative agent shall maintain records relating to the registrations and reports required to be filed under this Act as the Comptroller General determines by regulation are necessary for the effective implementation of this Act. Such financial records shall be kept in accordance with generally accepted accounting principles. All records required to be maintained by this section shall be preserved for a period of five years.

REPORTS BY LOBBYISTS

SEC. 6. (a) Each organization shall, not later than thirty days after the close of each quarterly period in which it is a lobbyist pursuant to section 3(a), file a report with the Comptroller General covering the organization's lobbying activities during the quarterly period. Each report shall identify the lobbyist, and shall contain the additional information required by the remainder of this section.

(b) In each instance where the lobbyist retains a legislative agent to engage in lobbying in the manner described in section 3(a)(1), the report shall identify the legislative agent and shall also include the following information with respect to each issue which was the subject of one or more lobbying communications by the legislative agent—

(1) a description of each such issue;

(2) the amount of income the lobbyist paid the legislative agent during the period in connection with each such issue;

(3) an identification of each officer, director, or employee of the legislative agent, and of any other person, who received income from the legislative agent, other than personal travel expenses, to engage in one or more lobbying communications during the period on behalf of the lobbyist, and a description of each issue with respect to which the officer, director, employee or other person engaged in such lobbying. In the case of any such person who engaged in lobbying communications with respect to more than ten issues, the lobbyist shall be required by this paragraph to describe only those ten issues which such person estimates accounted for the greatest proportion of the lobbying communications in which he engaged;

(c) In each instance where the organiza-

tion is a lobbyist pursuant to section 3(a)(2), the report shall also include the following information—

(1) a description of each issue which was the subject of one or more lobbying communications by its paid officers, paid directors, or paid employees;

(2) an identification of each paid officer, paid director, or paid employee of the lobbyist who made one or more oral lobbying communications on behalf of the organization, and a description of the issues with respect to which such lobbying communications were made. In the case of any such person who engaged in oral lobbying communications with respect to more than ten issues, the lobbyist shall be required by this paragraph to describe only those ten issues which such person estimates accounted for the greatest proportion of the oral lobbying communications in which he engaged. This paragraph shall portion of the oral lobbying communications which a paid officer, paid director, or paid employee of the lobbyist engaged in as a direct consequence of a solicitation described in subsection (d);

(3) an identification of any chief executive officer, or any principal operating officer, of the lobbyist, or of an affiliated organization, who made twenty-five or more oral lobbying communications on behalf of the lobbyist, and a description of each issue with respect to which such lobbying communications were made. This paragraph shall not apply to any individual identified by the lobbyist pursuant to paragraph (2). In the case of any such person who engaged in oral lobbying communications with respect to more than ten issues, the lobbyist shall be required by this paragraph to describe only those ten issues which such person estimates accounted for the greatest proportion of the oral lobbying communications in which he engaged.

(4) an estimate of the total expenses incurred by the lobbyist during the period in connection with all the issues with respect to which the organization engaged in lobbying, including an estimate of the total portion expended on lobbying communications, and the total portion expended on lobbying solicitations.

(d) The report shall also contain the following information about any solicitation made by a lobbyist during the period, either directly or through a legislative agent, which referred to the same issue or issues and which was intended to reach, or could reasonably be expected to reach, in identical or similar form, five hundred or more persons; twenty-five or more officers or directors, or one hundred or more employees, of the lobbyist, other than officers, directors, or employees identified pursuant to subsection (c) of this section; or twelve or more affiliates—

(1) either a description of each issue with respect to which such solicitation was made, or a representative sample of the lobbying solicitation;

(2) a general description of the oral or written means employed to make such lobbying solicitation, including the identification of any legislative agent through whom the solicitation was made, and an indication whether other persons were requested by the lobbyist to in turn solicit;

(3) an estimate of the total number of persons, including an estimate of the number of affiliates and an estimate of the number of officers, directors, or employees of the lobbyist, directly solicited by the lobbyist; an estimate of the number of States in which persons were directly solicited; and an identification of any State which received, or was intended to receive, 10 per centum or more of the total number of written solicitations made by the lobbyist if such State received, or was intended to receive, five hundred or more written solicitations;

(4) the direct expenses incurred by the

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lobbyist in making any lobbying solicitation where such expenses exceeded \$7,500; and

(5) in any case in which the lobbyist requests, urges, or requires one or more affiliates to in turn solicit, either—

(A) the identification of any such affiliate and, in any case in which the affiliate is a voluntary membership organization, either the approximate number of persons who are members of the affiliate, or an estimate of the number of persons the lobbyist expects the affiliate to solicit; or

(B) an indication of each State in which one or more of such affiliates is located, the total number of such affiliates in each State, and, in any case in which the affiliate is a voluntary membership organization, either the approximate number of persons who are members of all such affiliates in each State, or an estimate of the total number of persons the lobbyist expects all such affiliates in each State to solicit.

REPORT OF GIFTS

Sec. 7. (a) Each report filed pursuant to section 6 shall include a list of any gifts, loans, or honorariums described in subsection (b) or subsection (c) which are made directly or indirectly to any individual Member, officer, or employee of the Congress, or the executive branch. Such list shall include an identification of the individuals making and receiving each such gift, loan, or honorarium and a description of the gift, loan, or honorarium and its amount or value, the case of a gift described in subsection (d) the or honorarium except that in the case of a gift described in subsection (d) the recipients need not be named individually, but may be described by appropriate categories. (b) The requirements of this section shall apply—

(1) to any gift or loan of money, or any honorarium, made during the quarterly period by the lobbyist, by any officer, director, or employee of the lobbyist, or by any legislative agent on behalf of the lobbyist, which exceeds \$10 in amount;

(2) to any gift or loan of any goods, services, or any other thing of value made during the quarterly period, by the lobbyist, or by a legislative agent on behalf of the lobbyist, which exceeds \$10 in amount;

(2) to any gift or loan of any goods, services, or any other thing of value made during the quarterly period, by the lobbyist, or by a legislative agent on behalf of the lobbyist, including food, lodging, transportation or entertainment, which exceeds \$10 in value;

(3) to any gift or loan of any goods, services, or any other thing of value made during the quarterly period by any officer, director, or employee of the lobbyist or by a legislative agent on behalf of the lobbyist, which exceeds \$10 in value and which the officer, director, employee, or legislative agent has taken or will take, in whole or in part, as a deduction under section 162 or 212 of the Internal Revenue Code;

where the aggregate value of all the gifts, loans, or honorariums described in paragraphs (1), (2), and (3) made by the lobbyist, or by the officers, directors, employees, or legislative agents of the lobbyist, to any individual Member, officer, or employee of Congress or the executive branch exceeds \$50 in amount or value.

(c) The requirements of this section shall also apply to any gift or loan of any goods, services, or any other thing of value, including food, lodging, transportation, or entertainment, made during the quarterly period by an officer, director or employee of the lobbyist, or by a legislative agent on behalf of the lobbyist, which exceeds \$100 in value.

(d) The requirements of this section shall also apply to any reception, dinner, or other similar event paid for, in whole or in part, by the lobbyist for Members, officers, or employees of Congress, if the cost of the event exceeds \$300.

(e) This section shall not apply to any loan made on terms and conditions that are no more favorable than available generally, or to any gift or loan to any individual who is an immediate member of the family of the donor or lender, or to any contribution to a candidate as defined in section 431(e) of title 2, United States Code.

PROCEDURES FOR PREPARING REGISTRATIONS AND REPORTS

Sec. 8. (a) The Comptroller General shall withhold from public disclosure, upon petition by any person any information otherwise required to be disclosed to the public pursuant to this Act, upon a showing that disclosure of the information may reasonably be expected to lead to the harassment of any person, or lead to threats or reprisals against any person.

(b) If the expenses or income which a lobbyist must report under section 6 or section 7 are included in an item partly attributable to other purposes, such expenses or income may be reported, in conformity with regulations issued by the Comptroller General, by a good faith allocation which sets forth with reasonable accuracy that portion of the item expended or received for the lobbying activity concerned, and the basis on which the allocation is made.

(c) Wherever a lobbyist is required under section 6 to describe an issue before Congress or the executive branch the description shall include, where applicable, the bill or other identifying number, and, in the case of any issue involving communications with the executive branch, the agency with which the lobbyist communicated, and shall be made in such detail as shall disclose the general subject matter which is of interest to the lobbyist and the general position of the lobbyist on such matter.

(d) Each registration filed pursuant to section 4 and each report filed pursuant to section 6 shall be signed by an officer or director of the organization who shall certify that the information certified therein is accurate and complete to the best of his knowledge and belief.

(e) Each person whom a lobbyist retains as a legislative agent, and each officer, director and employee of a lobbyist, shall furnish to the lobbyist such information as is necessary to enable the lobbyist to comply with the provisions of sections 4, 5, 6, and 7.

DUTIES OF THE COMPTROLLER GENERAL

Sec. 9. It shall be the duty of the Comptroller General—

(1) to develop a filing, coding, and cross-indexing system to carry out the purposes of this Act, which shall contain an index of all persons identified in reports or registrations filed under this Act, including each legislative agent and each lobbyist that retained such legislative agent; and, in cooperation with the Federal Election Commission, to develop a cross-indexing system of persons identified in registrations and reports filed by lobbyists under this Act with persons identified in information filed under section 434 of title 2, United States Code;

(2) except in the case of any information any person has requested be withheld from public disclosure pursuant to section 8(a), to make copies of registrations and reports filed with him under this Act available for public inspection and copying, commencing as soon as practicable, but not later than the end of the second day following the day of receipt, and to permit copying of any such registration or report by hand or by copying machine or, at the request of any person, to furnish a copy of any such registration or report upon payment of a fee which shall be limited to reasonable standard charges for the direct cost of a document search and duplication. Documents shall be furnished to any person who requests them if the Comptroller General determines that

waiver or reduction of the fee is in the public interest;

(3) to preserve the originals of the registrations and reports for a period of not less than five years from the day of receipt;

(4) to compile and summarize, with respect to each quarterly period, the information contained in the registrations and reports in a manner which facilitates the disclosure of lobbying activities. To the extent the Comptroller General determines that it is meaningful and practicable to do so, the compilation and summary shall include information on—

(A) all lobbying activities pertaining to a particular issue; and

(B) the total lobbying activities of lobbyists who share an economic, business, or other common interest;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each quarterly period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(6) to employ his powers under this Act to ensure compliance with the Act;

(7) to conduct investigations in compliance with the provisions of chapter 5 of title 5, United States Code, with respect to any violations of this Act;

(8) not later than ninety days after the enactment of this Act and at any time thereafter, to propose such rules, regulations, and forms, in compliance with the provisions of chapter 5 of title 5, United States Code, as the Comptroller General determines are necessary to carry out the provisions of this Act in the most effective and efficient manner possible, and to prevent the evasion of the requirements of this Act; and

(9) To furnish assistance, to the extent practicable, to any person who requests assistance in the development of appropriate accounting procedures and practices to meet the recordkeeping and reporting requirements of this Act.

ADVISORY OPINIONS

Sec. 10. (a) Upon written request to the Comptroller General by any person, the Comptroller General, after consultation with the Attorney General, shall render an advisory opinion, in writing, within a reasonable time with respect to the applicability of the recordkeeping, registration, or reporting requirements of this Act to any specific set of facts involving such person.

(b) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provisions of this Act to which such advisory opinion relates. Any such advisory opinion may be modified or revoked, but any modification or revocation shall be effective only with respect to action taken or things done after such person has been notified, in writing, of such modification or revocation.

(c) Any request made under subsection (a), and any advisory opinion rendered by the Comptroller General, shall be made public by the Comptroller General in such form as the Comptroller General deems appropriate, except that upon request of any person seeking the advisory opinion, the identity of such person shall not be disclosed in any information made public by the Comptroller General pursuant to this subsection. Unless the Comptroller General determines that such request must be answered immediately, he shall, before rendering an advisory opinion, provide any interested person with an opportunity to submit written comments to the Comptroller General within such period of time as he shall provide.

(d) Any person who receives an advisory opinion under this section adverse to his in-

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terests may file a declaratory judgment action in the United States district court where that person resides or maintains his principal place of business.

ENFORCEMENT

SEC. 11. (a) The Comptroller General shall investigate violations of this Act. Any such investigation shall be conducted expeditiously, and in compliance with subsection 9 (7) of this Act.

(b) If, as a result of an investigation under subsection (a), the Comptroller General determines that the acts or practices of any person constitute a civil violation of this Act, he shall endeavor to correct the matter by informal methods of conference and conciliation and, if such methods are unsuccessful, he shall refer the matter to the Attorney General.

(c) The Comptroller shall refer apparent criminal violations of this Act to the Attorney General.

(d) The Attorney General, on behalf of the United States, may institute a criminal action in the district court of the United States for the district where any violation of this Act occurs, or a civil action in the district court of the United States for the district in which the person violating this Act is found, resides, or transacts business. In the case of any civil action, relief may include a permanent or temporary injunction, restraining order, or any other appropriate order.

(e) In any case in which the Comptroller General refers a civil or criminal violation to the Attorney General, the Attorney General shall act upon such referral in as expeditious manner as possible, and shall respond by report to the Comptroller General with respect to any action taken by the Attorney General regarding such violation. A report shall be transmitted no later than sixty days after the date the Comptroller General refers such violation, and at the close of every ninety-day period thereafter, until there is final disposition of the case. The Comptroller General may from time to time prepare and publish report on the status of such referrals.

INCIDENTAL POWERS OF THE COMPTROLLER GENERAL

SEC. 12. (a) Where necessary for the proper execution of his duties and functions under this Act, the Comptroller General shall have the power, pursuant to rules issued by the Comptroller General—

(1) to require by subpoena any person (a) to permit representatives of the Comptroller General to examine records required to be maintained by this Act; (b) to require the attendance and testimony of witnesses; and (c) to require the production of documentary evidence relating to the execution of his duties and functions;

(2) to administer oaths or affirmations;

(3) to obtain through written interrogatories the answers to questions, which answers shall be made within such a reasonable period of time and under oath or otherwise as the Comptroller General may order;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Comptroller General and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (1);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In cases of refusal to obey a subpoena or order issued by the Comptroller General under subsection (a), any United States district court within the jurisdiction of which any inquiry is carried on may, on a petition on behalf of the Comptroller General, issue an order requiring compliance therewith.

(c) Whenever the Comptroller General requests the Attorney General to bring a civil action under subsection 11(d) or subsection 12(b), and the Attorney General fails to bring such an action within sixty or ten days, respectively, of the date that the Comptroller General formally notifies the Attorney General of his intention to bring suit through his own attorneys, the Comptroller General may thereafter bring such suit in his own name through his own attorneys.

SANCTIONS

SEC. 13. (a) Any person who fails to comply with section 4, 5, 6, 7, or 8 of this Act shall be subject to a civil penalty of not more than \$10,000.

(b) No information contained in any registration or report filed under this Act shall be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose. Any person who fails to comply with this subsection shall be subject to a civil penalty of not more than \$10,000.

(c) In any action brought under this section, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate to require the defendant to comply fully and retroactively with subsection (b) of this section and with the registration, reporting, and recordkeeping requirements of this Act and any order issued under it. In determining the amount of civil penalty in any action under this Act, the court shall take into account the degree of culpability, any history of prior failure to comply with section 4, 5, 6, 7, 8, or subsection (b) of this section, and such other matters as justice may require.

(d) Any person required to file a registration under section 4, keep any record under section 5, file any report under sections 6, 7, or 8, or furnish any information under section 8(e), who knowingly and willfully—

(1) fails to file such registration, keep such record, file such report, or furnish such information, or

(2) in connection with any such registration, record, or report, or with the furnishing of any such information, falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 14. The Comptroller General shall transmit a report to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislation or other action as the Comptroller General considers appropriate.

GENERAL DEFINITIONS

SEC. 15. As used in this Act, the term—

(1) "affiliates" includes organizations or other groups of person which are associated with each other through any type of formal relationship, such as through ownership, the election of officers or directors, through franchise agreements, through common funding, or through common adherence to a charter or organizational bylaws, whether or not such person controls the policies or actions of the other. The term shall not include an informal or ad hoc alliance or coalition. For purposes of this Act, a communication or solicitation addressed to any

individual in his capacity as an officer, director, or employee of an affiliate shall be considered a communication or solicitation addressed to the affiliate;

(2) "Comptroller General" means the Comptroller General of the United States;

(3) "Congress" means (a) any Member, officer, or employee of Congress; (b) the Senate, or the House of Representatives; (c) any committee of the Senate or House of Representatives, including any standing, special, or select committee of the Senate or the House of Representatives, any joint committee of the Congress, any subcommittee of any such committee or joint committee, and any conference committee of the Congress; (d) any office of the Senate or the House of Representatives; (e) any office of the Congress; and (f) the Office of Technology Assessment, including the Technology Assessment Board;

(4) "director" means, with respect to an organization other than a partnership, an individual who is a member of a body containing fewer members than the organization itself which constitutes the governing board of such organization, and, with respect to a partnership, an individual who is a partner;

(5) "direct expenses" means expenses such as the cost of mailing, printing, advertising, telephones, consultant fees, or the like included in an item which is attributable to a lobbying activity, and which is not attributable, to any substantial extent, to any activity other than lobbying. The term also means expenses included in an item partly attributable to activities other than lobbying, where such item may, with reasonable preciseness and ease, be directly allocated in part to lobbying, except that this sentence shall not apply to a regular publication of a voluntary membership organization published in substantial part for purposes unrelated to lobbying;

(6) "employee" includes an individual performing personal services as an expert or consultant under contract with the Government;

(7) "executive branch" includes any agency as defined in section 552(e) of title 5, United States Code, and any officer or employee of such agency, except such term shall not include the General Accounting Office;

(8) "expenses" includes—

(A) a payment, distribution, loan, advance, deposit, or gift of money or anything of value made, disbursed, or furnished, and

(B) a promise, contract, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in subparagraph (A);

(9) "identification" includes, in the case of an individual, the name of the individual and his occupation, business address, and position held in the lobbying organization; and, in the case of an organization, the name of the organization and its address, principal place of business, nature of its business or activities, chief executive officer, and directors;

(10) "income" includes—

(A) a gift, donation, contribution, payment, loan, advance, service, salary, or other thing of value received, and

(B) a contract, promise, or agreement, whether or not legally enforceable, to receive any item referred to in subparagraph (A);

(11) "influence" means to affect, or attempt to affect, the disposition of any issue, whether by initiating, promoting, opposing, effectuating, delaying, altering, amending, withdrawing from consideration, or otherwise;

(12) "Issue before the Congress" means the totality of all matters, both substantive and procedural, relating to any pending or proposed bill, resolution, report, nomination, treaty, hearing, investigation, or other similar matter in Congress, including any action

or proposed action by a Member, officer, or employee of the Congress to influence, or attempt to influence, any action or proposed action by any officer or employee of the executive branch:

(13) "legislative agent" means any person who receives income from a lobbyist to engage in lobbying for the lobbyist, other than income received as an officer, director, or employee of the lobbyist. Any reference to such term shall include the officers, directors, or employees of a legislative agent. The term shall not include any person who only prepares material for the use of another person who in turn engages in lobbying in his own name;

(14) "lobbying" means engaging in lobbying communications, or lobbying solicitations, or both;

(15) "Member, officer, or employee of the Congress" means a Member of the Senate or the House of Representatives, a Delegate to the House of Representatives, the Resident Commissioner from Puerto Rico, and an officer or employee of the Senate or the House of Representatives or of any Member, committee, or office of the Congress;

(16) "organization" includes a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or group of individuals, except that it shall not include any organization which does not have one or more paid officers, paid directors, or paid employees;

(17) "paid officers, paid director, or paid employee" means an officer, director, or employee who receives income for his services, other than personal travel expenses, at a rate in excess of \$100 a week. An officer, director, or employee who is not employed on a full-time basis is included within this definition if the effective hourly rate at which such individual is compensated exceeds the effective hourly rate of a full-time employee who receives income at a rate in excess of \$100 a week;

(18) "person" includes an individual and an organization, whether or not it has paid officers, paid directors, or paid employees;

(19) "personal travel expenses" means expenses for travel but only if (a) the amount paid or received as reimbursement for such expenses does not exceed the actual cost of the transportation involved plus a per diem allowance for other actual expenses in an amount not in excess of the maximum applicable allowance payable under section 5702(c)(1) of title 5, United States Code, for Government employees, and (b) such allowance is received for no more than ten days in any quarterly period;

(20) "voluntary membership organization" means an organization composed of persons who are members thereof on a voluntary basis, and who, as a condition of membership, pay regular dues, subscribe to one or more publications, or make contributions to such organization.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

Sec. 16. (a) The Federal Regulation of Lobbying Act (60 Stat. 839; 2 U.S.C. 261 et seq.) is repealed.

(b) All documents, papers, and other information in the custody or control of the Clerk of the House of Representatives or the Secretary of the Senate obtained or prepared pursuant to the provisions of the Federal Regulation of Lobbying Act are hereby transferred to the custody and control of the Comptroller General. The Senate and the House of Representatives consent to the transfer of such documents, papers, or other information.

EFFECT ON OTHER LAWS

Sec. 17. (a) An organization shall not be denied an exemption under section 501(c)(3) of the Internal Revenue Code solely because it is an organization described in section 501(c)(3) of such Code, and shall not be denied status as an organization described in sections 170(c)(2), 2055(a)(2), 2108(a)(2), and 2522 of such Code, solely because such organization complies with the requirements of sections 4, 5, 6, 7, and 8 of this Act.

(b) The registration, reporting, and record-keeping requirements of the Act shall not relieve any person from the registration, reporting, recordkeeping, or similar obligations of any other Act.

SEPARABILITY

Sec. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

Sec. 19. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATES

Sec. 20. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the first day of the first calendar quarter which begins more than one hundred and eighty days after enactment of this Act.

(b) The provisions of this Act requiring the issuance of regulations to implement this Act shall become effective upon enactment.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to provide more effective disclosure to Congress and the public of certain lobbying activities to influence issues before the Congress, and for other purposes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical corrections in the engrossment of S. 2477.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I would like to take this opportunity to commend greatly Senator METCALF on his substantial and valuable contributions to this bill. His dedication to passage of a sound lobbying disclosure bill and to the constitutional rights of Americans has been apparent throughout consideration of this measure. His desire to make this the best possible piece of legislation deserves high praise by the Senate and by the American public. Thanks to his continuing efforts, the Senate has passed new lobbying disclosure legislation of which it can be proud.

I would also like to thank a number of other Senators who have contributed significantly to this legislation. These include the Senator from Illinois (Mr. PERCY) and the Senator from New York (Mr. JAVITS), both of whom, as always, worked diligently, as minority members of the committee, in a highly bipartisan manner to achieve passage of this legislation.

It also includes Senator MUSKIE who made a very important contribution to the bill by introducing his compromise amendment this morning with Senator [Name redacted] also to Senators [Name redacted] and [Name redacted].

KENNEDY, and STAFFORD for their contribution.

Thanks to the contribution of these Senators, the Congress can pass, for the first time in 30 years, comprehensive lobbying reform legislation.

Mr. President, praise must also go to the staff who worked so diligently on this bill. Dick Wegman, Paul Hoff, Marilyn Haniss, Paul Rosenthal, Connie Evans, John Childers, Brian Conboy, Jim Davidson, Vic Mareki, and Carey Parker all made very valuable contributions. My thanks, too, to Andy Loewi, Tom Sussman, Claudia Ingram, Lyle Rytter, Don Tacheron, and Wyn Turner for their excellent work.

MARITIME APPROPRIATION AUTHORIZATION ACT OF FISCAL YEAR 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consider Calendar No. 791.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments as follows:

On page 1, beginning in line 3, insert:

That this Act may be cited as the "Maritime Appropriation Authorization Act of Fiscal Year 1977".

On page 1, in line 5, delete "That" and insert in lieu thereof "Sec. 2".

On page 1, in line 5, delete "hereby".

On page 1, in line 9, delete "(a)" and insert in lieu thereof "(1) For".

On page 2, in line 1, after the word "subsidy," insert "not to exceed".

On page 2, in line 3, strike out "(b)" and insert in lieu thereof "(2) For".

On page 2, in line 4, strike out "\$19,500,000" and insert in lieu thereof "not to exceed \$22,500,000".

On page 2, in line 6, strike out "(c)" and insert in lieu thereof "(3) For".

On page 2, in line 6, after the word "expenses," insert "not to exceed".

On page 2, in line 8, strike out "(d)" and insert in lieu thereof "(4) For".

On page 2, in line 9, after the words "New York," insert "not to exceed".

On page 2, in line 11, strike out "(c)" and insert in lieu thereof "(5) For".

On page 2, in line 12, after the word "schools," insert "not to exceed".

On page 2, beginning at line 13, strike out:

Sec. 2. In addition to the amounts authorized by section 1 of this Act, there are authorized to be appropriated for the fiscal year 1977 such additional supplemental amounts for the activities for which appropriations are authorized under section 1 of this Act as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

And insert in lieu thereof:

Sec. 3. There are authorized to be appropriated for the fiscal year 1977, in addition to the amounts authorized by section 2